UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,500	03/26/2004	Masakazu Nishida	9683/175	8158

7590   03/23/2009

Brinks Hofer Gilson & Lione
NBC Tower
Suite 3600
P.O. Box 10395
Chicago, IL 60610

EXAMINER
ROSE, KERRI M

ART UNIT	PAPER NUMBER
2416	

MAIL DATE	DELIVERY MODE
03/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/810,500	NISHIDA ET AL.
	Examiner	Art Unit
	KERRI M. ROSE	2416

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires _3_ months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/Aung S. Moe/ Supervisory Patent Examiner, Art Unit 2416	/Kerri M Rose/ Examiner, Art Unit 2416

Continuation of 11. does NOT place the application in condition for allowance because:

Imamura is not directed to security related to a first and second program, however Imamura is analagous art. Imamura deals with a similar problem, which is ensuring security of data access. In Imamura data is written to a medium such as a CD. As described in Imamura col. 1 lines 23-26, conventionally once the data is written to the disk any device may access the data. Imamura attempts to prevent this using security techniques.

In an interview on Feb. 27, 2009 it was discussed whether Imamura teaches "in response to a request from the first program executed on the processor…" in light of the fact that Imamura is directed towards a medium such as a CD. Examiner agreed that Imamura did not seem to teach the limitation but wished to further examine the rejection. Upon further examination Examiner believes the combination of Hind and Imamura adequately disclose all limitations.

Hind clearly discloses applying security features to a message exchange such as a program download. Regarding Imamura some data, which may be program data, is written by a first device onto a memory medium. The memory medium is then inserted into a second device which attempts to access the data. Figure 10 illustrates one such embodiment. In this case the storage devices are interpreted as the equivalent of the first and second programs of the claims. One storage device writes data which a second storage device attempts to access. In response to the access attempt security features are invoked, such as identifer matching. This process matches that in the claims in which a first communication address is matched with a second communication address in response to a request from the first program to access data associated with the second program.

Hind discloses a first and second programs that implement security measures. Imamura discloses a first and second storage devices that implement similar security measures for a similar purpose. The combination of Hind and Imamura thus satisfies all of the claim requirements.

Applicant may wish to question whether the storage devices of Imamura may be combined with the programs of Hind. A program is a set of commands or algorithms sotred in a storage device and executed by a processor. Imamura discloses storage devices which attempt to read and write data from a medium such as a CD in accordance with a set of commands or algorithms executed by a processor. Therefore Imamura and Hind are claiming similar structure and functions and the combination is proper.
.